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Nonstandard Testing Accommodations Request Form and Documentation Packet for the July 2012 Bar Examination

Introduction

The Board of Law Examiners (Board) will provide reasonable nonstandard testing accommodations (NTA) at no additional cost to qualified applicants with disabilities as defined under the Americans with Disabilities Act, as amended (ADA). The extent of accommodations will be consistent with the nature and purpose of the examination and necessitated by the applicant's disabilities. If you have any questions after you read these instructions, please contact the Deputy Director of Testing at (717) 231-3350.

The burden of proof is on the applicant to establish the existence of a disability as defined by the ADA and to establish the need for NTA. A disability is defined under the ADA as a physical or mental impairment that substantially limits one or more major life activities of an individual. The ADA requires the Board to provide NTA to those individuals who have a physical or mental impairment that substantially limits them from performing one or more major life activities as compared to most people in the general population. Although you may provide the required documentation establishing that you have a physical or mental impairment, you are not automatically entitled to NTA. Unless you establish that your impairment substantially limits one or more major life activities as compared to the average person, you will not be entitled to NTA on the bar examination. All requests for NTA are evaluated on a case-by-case basis.

In compliance with the ADA, the Board is authorized to require specific documentation, and to establish procedures to evaluate that documentation in order to ensure that the applicant is an individual for whom accommodations are required. In accordance with that authority, the Board has developed a *Nonstandard Testing Accommodations Request Form and Documentation* packet.

Nonstandard Testing Accommodations (NTA) Description

NTA means an adjustment or modification of the standard testing conditions that ameliorate the impact of the applicant's disability on the examination process without fundamentally altering the nature of the examination, which would not impose an undue administrative or financial burden on the Board, compromise the security, validity or reliability of the examination, or provide an unfair advantage to the applicant with the disability.

Disabilities Overview

The following is a list of the types of disabilities for which nonstandard testing accommodations may be provided (for illustrative and reference purposes only - not exhaustive):

1. **Physical impairments:** (conditions that restrict or impair sensory-motor functioning or mobility):
 - a. cerebral palsy
 - b. polio
 - c. multiple sclerosis
 - d. arthritis
 - e. orthopedic injuries, including paraplegia or quadriplegia
 - f. epilepsy
 - g. muscular dystrophy
 - h. tourette's disorder
 - i. blindness
 - j. other (cancer, AIDS, ARC, allergies)

2. **Other disabilities:**
 - a. learning disabilities
 - b. brain injuries
 - c. AD/HD
 - d. other psychiatric conditions

Problems such as test anxiety, English as a second language (in and of itself), slow reading without an identified underlying cognitive deficit, or failure to achieve a desired academic outcome are not learning disabilities, and therefore, are not covered under the ADA.

Accommodations Overview

The following is a list of types of nonstandard testing accommodations available (for illustrative purposes only):

1. large type (18 pt font) examination
2. audio taped versions of the examination
3. dictation equipment
4. reader and/or writer
5. Braille examination
6. additional time for either rest breaks or testing
7. specific height tables to accommodate medical problems (such as wheelchairs)
8. permission to type written portions of the examination on computer

Applicants who are approved for NTA, will be tested in an area with applicants receiving similar accommodations.

Filing Instructions

Filing Deadline

For applicants seeking NTA, the *NTA Request Form, Certification Statement, Authorization and Release (for NTA)*, Certificate of Law School Official, and supporting documentation related to the NTA request are an integral part of the Application for Permission to Sit for the Pennsylvania Bar Exam. These documents must be received by the Board in accordance with the established filing deadlines.

Applications to sit for the bar examination, and *NTA Request Form and Documentation Packet* are available in early January for the July examination and, in early September for the February examination. This allows time for diagnostic testing and medical examinations to be performed and requests for information and reports to be made to facilitate NTA requests prior to the **timely filing deadlines of April 15 for the July exam and October 30 for the February exam.** You are encouraged to file your completed NTA Request Form and required documentation as early as possible in order to facilitate expedient decisions regarding accommodations that may be granted.

Filing Requirements if Retaking the Bar Exam

Applicants who were previously granted NTA on a prior Pennsylvania bar exam are not required to submit an NTA Request Form and associated documentation, provided that the applicant is seeking the exact same accommodation(s) that were granted in the past and has had no material change(s) in his/her condition. A new NTA Request Form and documentation is required if there is any change in the accommodations requested. Also, an update to prior medical documentation is required, assessing the applicant's current functional limitations and ongoing need for accommodations, if the nature of the applicant's disability or disabilities is changeable. The Board reserves the right to request an update to prior documentation in all cases if it determines that the prior documentation is insufficient to establish the applicant's current level of impairment and need for accommodation. Applicants who are retaking the exam and seeking NTA must indicate their interest in NTA on the online *Application for Permission to Sit for the Pennsylvania Bar Exam.*

Payment Requirements

First-time applicants paying by money order, certified check, cashier's check, law firm check or corporate check **must** send their payment with their NTA Request Form and documentation. The applicable filing fee is determined by the postmark date. Refer to the current *Fee Schedule* for filing fees and deadlines. Applicants seeking NTA who wish to pay by credit card must indicate this payment choice when completing the online *Application for Permission to Sit for the Pennsylvania Bar Exam.* Applicants who have made this selection will receive an e-mail notice from the Board office when the office has received the applicant's NTA Request Form and documentation. At that time, applicants who wish to pay by credit card must enter their credit card information online. It is the applicant's responsibility to check their e-mail and to be sure to return to the online payment screen and enter their credit card information. **Applications will not be accepted and processed without payment.**

Late Fees

If your NTA Request Form and documentation is returned for any reason, and/or denied, late fees will be assessed if applicable under established filing deadlines, in order for you to be able to resubmit your application. All late filing fees and deadlines will remain in effect for resubmission of returned applications, and/or to submit additional documentation to support your request for NTA. Please refer to the Fee Schedule for late filing deadlines and fees.

Incomplete Filings

Incomplete NTA Request Forms and documentation otherwise not filed in compliance with these instructions will be returned via USPS regular mail. An NTA Request Form will be deemed incomplete for the following reasons, which are not exhaustive: 1) if any portion of it is not properly executed; 2) if the Certification Statement, and/or the Authorization and Release is not completed, signed, dated and/or notarized; 3) if any portion of it is missing; and/or 4) if any questions are unanswered, incompletely answered or missing any required details.

If your NTA Request Form and documentation is returned to you for any reason, to renew your request you must resubmit the Request Form and supporting documentation in accordance with the application filing deadlines and fees (see *Fee Schedule*). NTA Request Forms will not be accepted after the final filing deadline. There will be no exceptions made to the filing deadlines and/or filing fees for any reason.

Therefore, if your NTA Request Form and documentation is incomplete and/or returned to you for any reason, you are still required to meet the final filing deadline; otherwise, you will not be permitted to sit for the bar examination with NTA. As well, if your fee for the bar examination has not been paid, you will not be permitted to sit for the bar examination. These are the only instructions that you will receive. **It is your sole responsibility to complete and submit the required documentation according to these instructions.**

Please be advised that the Board is not responsible for the delivery and/or receipt of your NTA Request Form and required documentation. It is recommended that you use an overnight courier (e.g., FedEx, UPS, USPS, DHL, etc.) to track the delivery of your documents to the board office. Due to the volume of documentation received in the board office, receipt of application documentation cannot be verified over the telephone.

Steps for Submitting a Complete Request

1. **Provide a copy of the Instructions On Providing Documentation For Qualified Professionals and Applicants to your medical/professional authorities and gather documentation.** Testing accommodations are provided based on the current nature and impact of the applicant's disability and must be supported by a recent evaluation and diagnostic report. Submit a comprehensive report describing your disability and its severity, which justifies the need for the requested accommodation. If you are requesting accommodations based upon more than one disability, you should supply medical documentation to support each disability. If you do not provide any medical documentation with your initial NTA request, it may be immediately denied because you failed to meet your burden of proof and have not provided sufficient medical information required for a board consultant to make a recommendation.
2. **Complete the NTA Request Form. Complete each section of the NTA Request Form; otherwise, your request will be deemed incomplete and will be returned.** Be sure to list exactly what accommodations you are requesting (be very specific). The only accommodations that will be reviewed are the ones that you indicated on the NTA Request Form, under "NONSTANDARD TESTING ACCOMMODATIONS REQUESTED" sections 16 and 17, (i.e., various accommodations mentioned in your personal statement, recommended by your medical expert in their reports, received in past testing environments, etc. will not be considered unless you specifically request them). We have no way of knowing what accommodations you need unless you request them.
3. **Gather verifying documentation of your history of accommodations, if any.** Submit documentation from each educational institution or testing agency (hereinafter "entity") from which you requested accommodations, whether your request was granted or denied. Copies of the letter(s) you received from the entity notifying you of the specific accommodations granted or denied are acceptable. The verification should identify the time frame and the nature of the disability for which any accommodations were granted or denied. If you received accommodations as a result of an Individualized Education Plan (IEP) or a 504 Plan, please provide copies of all IEPs or 504 Plans.

4. **Type your name and social security number on the Certificate of Law School Official, and submit it to your law school for completion (fax copies are acceptable).** This Certificate must be submitted to the board office with your NTA Request Form and documentation.
5. If the nature of your disability is AD/HD, a learning disability, or a psychiatric disability gather transcripts. Submit copies of your undergraduate and law school transcripts and your LSAC Academic Summary Report. Photocopies of transcripts are acceptable for this purpose. You can obtain your LSAC Academic Summary Report by logging in to your LSAC account at <http://www.lsac.org>. Click on “Transcripts” then click on “Academic Summary Report,” and print the report. If you have trouble obtaining the report, contact an LSAC representative at 215-968-1001.

Transcripts or report cards of your elementary, middle school, and high school education, while not required, are useful in providing evidence of symptoms and impairment present during childhood. The Board reserves the right to request such academic records in particular cases.
6. **Gather copies of your SAT and LSAT test scores.** Whether or not you received accommodations in the past, you must still provide your SAT and LSAT test scores for review.
7. **Complete the Certification Statement.** Be sure it is signed and dated.
8. **Complete the Authorization and Release.** Be sure it is signed, dated, and notarized
9. **Make copies of all documentation for your records.**
10. **Gather all the relevant forms and documents listed above and submit it to the Board office with your NTA Request Form.**

Information about Medical Documentation

Applicants should provide a comprehensive written report from a qualified professional who conducted an individualized assessment and who gave the diagnoses which forms the basis for this request for test accommodations. The report must be recent and comply in all other respects with the documentation guidelines described in the *Instructions for Providing Documentation for Qualified Professionals and Applicants*.

Generally, if the medical/professional documentation and evaluations you submit are not dated within the past three years (5 years for permanent physical disabilities), you will need to submit current documentation. This can be provided in the form of an addendum to original or updated evaluations that were previously performed. However, the required recency of the evaluation will vary depending on whether the disability or resulting functional limitation is changeable over time.

You should submit ALL previous medical evaluations/documentation to confirm the history of your disability. The most recent evaluations are used to evaluate your current level of disability. Otherwise, the Board consultant may not be able to appropriately evaluate your request for NTA under the ADA, and you may be denied NTA.

NTA Request Process (Approved/Denied)

If the requested testing accommodations are **approved**, you will be notified by letter, normally no later than five weeks before the bar examination. The **only** accommodations that will be reviewed and approved are the ones that you indicated on the NTA Request Form under *NONSTANDARD TESTING ACCOMMODATIONS REQUESTED Sections 16 and 17*, (i.e., various accommodations mentioned in your personal statement, recommended by your medical expert in their reports, received in past testing environments, etc. **will not** be considered unless you specifically request them).

If the requested testing accommodations are **denied**, you will be notified by letter, normally within 30 days after you submit your NTA Request Form and documentation. You may elect to submit additional documentation to support your request for NTA. However, any additional documentation submitted to the board office must be filed in accordance with the bar examination late filing deadlines and fees (minus the fees you previously submitted – see *Fee Schedule*). No additional documentation will be accepted after the final filing deadline and/or without the appropriate late filing fees for any reason. Any additional documentation submitted by the final filing deadline will be added to your original NTA Request Form and documentation. It will then be reviewed and you will be notified in writing of a subsequent determination.

In the alternative, you have the right to appeal and request a hearing before the Board. You may elect to have your medical professional(s) available during the hearing for clarification of the evaluation(s) that were performed. No new evidence may be submitted at the hearing in support of your appeal; however, clarification of existing documentation or further explanation may be provided. If you did not include medical documentation from your medical professional with your NTA Request Form when it was reviewed and subsequently denied, your medical professional would not be permitted to testify at the NTA hearing. Please be advised that there will be no exceptions made to this policy for any reason. You must notify the Board office by telephone and in writing within 10 days of the denial notification letter, of your intent to submit additional information, or appeal the denial of your request for NTA. If such notice is not provided, and if no additional information is submitted in accordance with the above referenced procedures, your request for NTA for the bar examination will remain denied. You are permitted to review and obtain copies of documentation included in your NTA file. If your NTA request was reviewed by one of the Board's medical consultants and your NTA request was denied by the Executive Director, you will be provided a copy of the consultant's evaluation for your records.

If your request for NTA is denied by the Board of Law Examiners subsequent to a hearing, you may seek judicial review by the Supreme Court of Pennsylvania. Please refer to Pa.B.A.R. 213(b) and 222 for additional information relating to hearings and appeal information.

Correspondence

Inquiries regarding your NTA Request Form and documentation must be in writing. Please do not call the board office for an update on the status of your pending NTA request. You will receive written notice via United States Postal Service (USPS) certified or regular mail of the disposition of your request for accommodations as soon as a decision is made. It is recommended that you prepare for the examination as though the accommodations have not been granted, until and unless you are otherwise notified in writing by the Executive Director. If you do not receive a letter from the board office regarding any requested accommodations five weeks prior to the bar examination, you must contact the board office immediately.

Information about the Authorization and Release

You may be required to submit to diagnostic testing by an independent doctor or specialist chosen by the Board, and you will be notified if this is required. Accordingly, the *Authorization and Release* for applicants requesting NTA must be completed, signed, dated and notarized in order to verify information and to facilitate this process. A board consultant may review requests for NTA pertaining to learning disabilities and/or Attention Deficit Hyperactivity Disorder (ADHD). Additionally, depending upon the disability and the documentation submitted, requests for NTA pertaining to *physical* impairments may also be reviewed by a board consultant. Please be sure to provide all of the requested documentation regarding your disability. Otherwise, the consultant will not be able to examine the basis for your diagnosis or the rationale for your requests and your request for NTA may be denied for insufficient documentation.

Candor and Confidentiality

The information and documentation provided by you for NTA are subject to the same obligation of candor as all other information provided in your application. Providing false documentation or information may result in the initial denial of your application to sit for the bar examination, pursuant to Pa.B.A.R. 203(a)(3) regarding moral character and fitness to practice law. All information provided is subject to the confidentiality provisions of Pa.B.A.R. 402 and other applicable authority.

Instructions for Qualified Professionals and Applicants Regarding Providing Documentation

Below is information to guide professionals and applicants as to the information that should be included in a request for accommodations on the Pennsylvania bar examination. (Professionals: Please pay particular attention to Item 1 (e)). All requests for testing accommodations must be supported by a comprehensive written evaluation report from the qualified professional who conducted an individualized assessment of the applicant and is recommending accommodations on the bar examination on the basis of a disability. The burden of proof is on the applicant to establish the existence of a disability as defined by the ADA and to establish the need for testing accommodations.

The Pennsylvania bar examination is a two-day, six-hour-per-day (three-hour A.M. and three-hour P.M.) timed test. The first day consists of a written performance test (PT) and two essay questions in the AM session and four essay questions in the PM session. Applicants have the option to use their personal laptop computers to complete the PT and essay portions of the bar examination. The second day consists of 100 multiple choice questions for both the AM and PM sessions. Applicants record their answers by darkening circles on an answer sheet that is scanned by a computer to grade the examination. The Pennsylvania bar examination does not test Math skills. Also, factors such as grammar, penmanship, and spelling are not considered in the grading of the PT and essay answers. All applicants may take breaks and use the restroom at their convenience and receive an hour for lunch. Applicants may bring a beverage in a resealable container and small amounts of unwrapped food into the examination room.

General Guidelines for All Medical Documentation

1. The following information is required for all documentation submitted in support of a request for an accommodation:
 - A. **State a specific diagnosis of the disability.** A professionally recognized diagnosis for the particular category of disability is expected, (e.g., the DSM-IV diagnostic categories for learning disabilities).
 - B. **Be current.** Because the provision of reasonable accommodations is based on assessment of the current impact of the applicant's disability on the testing activity, it is in the individual's best interest to provide recent documentation. As the manifestations of a disability may vary over time and in different settings, generally in most cases an evaluation should have been conducted within the past three years (e.g., low vision or neuromuscular conditions are often subject to change and should be updated for current functioning). Since applicants must establish "current impairment" in order to be eligible for accommodations, diagnostic evaluations for certain conditions that are more than 3 years old may be denied for that reason alone. However, the required recency of the evaluation will vary depending upon whether the disability or resulting functional limitation is changeable over time. For example, a learning disability may not need to be updated within three years, while certain physical and psychological disabilities may need to be evaluated more recently than three years depending on the specific nature of the disability.
 - C. **Describe the specific diagnostic criteria and name the diagnostic tests and other measures used, including date(s) of evaluation, specific test results and a detailed interpretation of the test results.** This description should include the results of diagnostic procedures and tests utilized and should include relevant educational, developmental, and medical history. Specific test results should be reported to support the diagnosis (e.g., documentation for an applicant with multiple sclerosis should include specific findings on the neurological examination, including functional limitations and MRI or other studies, if relevant). Diagnostic methods used should be appropriate to the disability and should be consistent with current established professional practices within the field.

- D. **Describe in detail the individual’s limitations due to the diagnosed disability (i.e., a demonstrated impact on functioning related to taking the bar examination) and explain the relationship of the test/evaluation results to the identified limitations resulting from the disability.** The current functional impact on physical, perceptual and cognitive abilities should be fully described (e.g., an applicant with macular degeneration has reduced central vision which limits the ability to read).
- E. **Recommend specific accommodations and/or assistive devices.** Include a detailed explanation of why these accommodations or devices are needed and how they will reduce the impact of the identified functional limitations.

If additional time to complete the examination is recommended, you must:

- 1) explain the rationale for the request;
- 2) specify the number of additional minutes per session (Essay A.M. and P.M., and MBE A.M. and P.M.) that you are recommending (see Information and Passing Standards);
- 3) specify if the additional time is for testing or breaks; and
- 4) submit supporting documentation that the request for additional time ameliorates the impact of the applicant’s disability on the examination process without fundamentally altering the nature of the examination.

- F. **Establish the professional credentials of the evaluator that qualify them to make the particular diagnosis, including license or certification information and specialization in the area of the diagnosis.** The evaluator should present evidence of comprehensive training and direct experience in the diagnosis and treatment of adults in the specific area of disability.

2. Additionally, if prior accommodations were not requested, required, or provided, the qualified medical/professional authorities must include a detailed explanation as to why accommodations were not sought or required in the past and why accommodations are now necessary.

Guidelines for Documentation for Learning Disabilities

Documentation for applicants submitting a request for an accommodation based on a learning disability or other cognitive impairment should contain all of the items listed in the “General Guidelines for Medical Documentation” (General Guidelines) section. The following information explains the additional issues and documentation that must be addressed relative to learning disabilities.

Because learning disabilities are commonly manifested during childhood (though not always diagnosed), historical information regarding the individual’s academic history and learning problems in elementary, secondary, and post secondary education should be documented and provided. Establishing an early onset of symptoms and impairment during childhood can be accomplished by providing copies of historical documents such as report cards from kindergarten, elementary school, middle school, and high school, prior psycho-educational testing reports, copies of Individualized Education Plans or 504 Plans, achievement test scores, teacher comments, and the like. Self-report alone, without any accompanying historical documents that validate developmentally deviant learning problems, are generally not sufficient to establish a learning disability.

Documentation must be comprehensive. Objective evidence of a substantial limitation in learning or performance must be provided. At a minimum, the current comprehensive evaluation should include the following:

1. **A qualified professional must conduct the evaluation.** The diagnostician must have comprehensive training in the field of learning disabilities and direct experience in working with an adult population.

2. **Testing/assessment must be current.** The determination of whether an individual is substantially limited in functioning according to ADA criteria is based on assessment of the current impact of the impairment (see General Guidelines). Although a learning disability is normally lifelong, the severity and manifestations can change. The Board generally requires documentation from an evaluation conducted within the last five years to establish the current impact of the disability. A developmental disorder such as learning disability originates in childhood; therefore, information demonstrating a history of impaired functioning beginning in childhood, should also be provided.
3. **A diagnostic interview and history taking.** The assessment report should include a summary of a comprehensive diagnostic interview that includes relevant background information to support the diagnosis. In addition to the applicant's self-report, the report of assessment should include:
 - a. A description of the presenting problem(s);
 - b. A developmental history that establishes a childhood onset of impairment;
 - c. Relevant academic history including results of prior standardized testing, grades, any suspensions or disciplinary actions, teacher comments describing classroom performance and behavior, study habits, and notable trends in academic performance;
 - d. Family history, including primary language of the home and current level of fluency in English;
 - e. Relevant psychosocial history;
 - f. Relevant medical history including ruling out a medical basis for the present symptoms;
 - g. Relevant employment history including a description of how their learning problems impacted them on past or current jobs;
 - h. A discussion of dual diagnosis, alternative or co-existing mood, behavioral, neurological and/or personality disorders along with any history of relevant medication and current use that may impact the individuals learning; and,
 - i. Exploration and ruling out of possible alternative explanations that may better explain their learning/testing difficulties (such as situational stressors, anxiety, depression, divorce, substance abuse, etc.)
4. **A formal psychoeducational or neuropsychological report must be provided.** The psychoeducational or neuropsychological report must be submitted on the letterhead of a qualified medical/professional authority and it must provide clear and specific evidence that a learning or cognitive disability does or does not exist. Diagnosticians need to build a solid case for their diagnostic conclusions incorporating not only testing scores and self-reported history, but including evidence of real world functional impairment relating to the learning problems. For example, in the case of a reading disability, diagnosticians should provide evidence of persistent reading deficiencies in the classroom (low reading groups, history of tutoring/extra help, teacher observations of deficient oral reading or comprehension, resource room assistance etc.) rather than a single test score on a standardized test such as the Nelson Denny Reading Test. The diagnosis must be based on the aggregate of test results, history and level of current functioning. It is not appropriate or acceptable to base any learning disability diagnosis on only one or two subtests. You must also present objective evidence of a substantial limitation to learning or performance that goes beyond mere test scores. Any tests used must be appropriately normed for the age of the patient and must be administered in the designated standardized manner. Minimally, the domains to be addressed should include the following:
 - A. **Cognitive Functioning.** A complete cognitive assessment is essential with all subtests and standard scores reported. This is necessary to rule out intellectual limitation as an alternative explanation for academic difficulty and to identify cognitive strengths and weaknesses. Acceptable measures include but are not limited to: Wechsler Adult Intelligence Scale-IV (WAIS-IV); Woodcock Johnson Psychoeducational Battery-III: Tests of Cognitive Ability; and Kaufman Adolescent and Adult Intelligence Test.
 - B. **Achievement.** A comprehensive achievement battery with all subtests and standard scores is essential. The battery must include current levels of academic functioning in relevant areas such as reading (decoding and comprehension), spelling, and written expression. Acceptable instruments include, but are not limited to the Woodcock Johnson Psychoeducational Battery-III: Tests of Achievement; and The Scholastic Abilities for Adults (SATA). Other specific achievement tests may be a useful supplement to the achievement battery

when interpreted within the context of other diagnostic information. However, please be advised that The Wide Range Achievement Test-3 (WRAT-3), the Peabody Individual Achievement Test (PIAT, PIAT-R), and the Nelson Denny Reading Test are not comprehensive diagnostic measures of achievement. Therefore, they are not acceptable if used as the sole measure of achievement and are not sufficient to establish a learning disability.

- C. **Information Processing.** Evidence of processing deficiencies might involve short and long-term memory, sequential memory, auditory and visual perception/processing, auditory and phonological awareness, processing speed, executive functioning, and/or motor ability. It is recommended that these functions be assessed to delineate the learning disability. Acceptable measures include but are not limited to the Wechsler Memory Scale – III (WMS-III), Detroit Tests of Learning Aptitude – Adult (DTLA- A), and the Woodcock Johnson Psychoeducational Battery – III: Tests of Cognitive Ability (visual processing, short term memory, long term memory, processing speed). It is helpful to show how any testing weaknesses in these areas impact the person’s learning and real world functioning in other major life activities.
- D. **Effort on Testing.** The applicant’s effort during testing should be monitored to determine the reliability of the diagnostic information and test results. Information concerning the applicant’s behavior and motivational level should be provided along with the results of symptom validity tests.
- E. **Other Assessment.** Procedures (such as inspection of historical medical, psychiatric, academic, or vocational records, use of Rating Scales, input from collateral informants who know the person well such as parents, teachers, tutors, coaches) or clinical observations of behavior and mental status may be integrated with the above instruments to help support a differential diagnosis or to disentangle the learning disability from co-existing neurological and/or psychiatric issues. In addition to standardized test batteries, nonstandardized measures and informal assessment procedures may be helpful, especially if they serve to illuminate legitimate real world functional impairment in one or more life domains.
- F. **Actual test scores must be provided (standard scores where available).** Evaluators should use the most recent form of tests and should identify the specific test form as well as the norms used to compute the scores. It is helpful to list all test data in a score summary sheet appended to the evaluation.
- G. **Records of academic history must be provided.** Because learning disabilities most commonly have an onset during childhood, early school records, report cards, or other evidence of developmentally deviant learning problems should be provided whenever possible. Examples include kindergarten records, elementary, junior high, and high school report cards, written teacher comments, documentation from past tutors or learning specialists, past psychoeducational testing reports, 504 Plans, Individualized Education Plans (IEPs), college and law school transcripts, and the like. These sorts of records are essential to help validate self-reported impairment and to help determine if the history of functional impairment is of sufficient magnitude to rise to the level of clinical diagnosis and a disability. It is important to demonstrate the history of functional impairment via objective historical records; not just tell us about it.
- H. **Clinicians must build a sufficient case for their diagnostic conclusions and document an attempt to rule out other possible causes for the learning problems.** The evaluation should provide a sound rationale to support the learning disability diagnosis, show how the deficits currently impair the individual’s ability to learn or perform, and show how they impair the person in standardized testing situations. Again, no single test or subtest is a sufficient basis for a learning disability diagnosis. The differential diagnosis must demonstrate that:

- 1) Significant difficulties started early and have persisted in the acquisition and use of listening, speaking, reading, writing or reasoning skills;
- 2) The problems being experienced are not primarily due to lack of other factors such as insufficient cognitive ability, lack of exposure to the behaviors/skills needed for academic learning or success in law school, or to an inappropriate match between the individual's ability and the instructional demands of the law school environment or the bar exam.

I. **A clinical summary must be provided.** A well-written diagnostic summary based on a comprehensive evaluative process is a necessary component of the clinician's report. Assessment instruments and the data they provide do not diagnose; rather, they provide important data that must be integrated with background information, historical information and current functioning. It is essential then that the evaluator builds a case for the diagnosis by integrating all of the assessment information gathered in a well-developed clinical summary. The following elements should be included in the clinical summary:

- 1) Demonstration of the evaluators having ruled out alternative explanations for the identified academic problems as a result of poor education, poor motivation and/or study skills, emotional problems, attentional problems, substance abuse, or cultural or language differences;
- 2) Indication of how patterns in cognitive ability, achievement and information processing (both in test scores and in real world functioning) are used to determine the presence of a learning disability;
- 3) A description of what historical records were inspected and how they demonstrate a history of impairment that would support a learning disability diagnosis;
- 4) A specific description of the substantial limitation to learning or performance presented by the learning disability and the degree to which it impacts the individual in the context of taking the Pennsylvania bar examination; and
- 5) Indication as to why specific accommodations are needed and how the accommodations will ease the impact of the disability in the testing (bar exam) situation.

J. **Each accommodation recommended by the evaluator must include a rationale.** The evaluator must describe the impact the diagnosed learning disability has on a specific major life activity as well as the degree of significance of this impact on the individual. The diagnostic report must include specific recommendations for accommodations and a detailed explanation as to why each accommodation is recommended. Accommodation requests are not granted on the basis of a diagnostic label; they should be tied to the history of functional impairment. The documentation should include any record of prior accommodations or auxiliary aids, including any information about specific conditions under which the accommodations were used and whether or not they were effective. However, a prior history of receiving accommodations in other academic/testing environments is not a guarantee one will receive accommodations on the Pennsylvania bar exam. Applicants must provide sufficient documentation to substantiate they have a current need for accommodations and that they meet the ADA's definition of "disabled". If no prior accommodation(s) has been provided, the qualified medical/professional authority must include a detailed explanation as to why no accommodation(s) was used or necessary in the past and why accommodation(s) is needed at this time.

Guidelines for Documentation for AD/HD

The diagnostic criteria as specified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) are used as the basic guidelines for determination of an Attention Deficit Hyperactivity Disorder diagnosis.

1. An applicant warranting an AD/HD diagnosis must meet basic DSM-IV criteria including:
 - A. Demonstrating that they exhibit a sufficient number of symptoms (listed in DSM-IV) of Inattention and/or Hyperactivity/Impulsivity that have been persistent and maladaptive. The exact symptoms should be specified and described in detail and it should be shown how the patient meets criteria for long-standing history, impairment, and pervasiveness.
 - B. Since AD/HD is by definition a childhood onset disorder, the documentation must also provide evidence to support a childhood onset of symptoms and associated impairment. Self-report is generally insufficient to substantiate a childhood onset of symptoms/impairment. It is always helpful to provide historical records that validate self-reported impairment such as kindergarten, elementary, middle school, and high school report cards, Individualized Education Plans, 504 Plans, early psycho-educational testing reports, teacher comments, documentation from tutors or learning specialists, disciplinary records, and the like.
 - C. Providing objective evidence demonstrating that current impairment from the symptoms is present in two or more settings. Since AD/HD tends to affect people over time and across situations in multiple life domains, it is necessary to show that the impairment is not confined to only the academic setting or to only one circumscribed area of functioning.
 - D. A determination that the symptoms of AD/HD are not a function of some other mental disorder (such as mood, anxiety, or personality disorders, substance abuse, low cognitive ability etc.) or situational stressor (such as divorce, grief reaction, family or financial crisis, etc.).
 - E. Indicating the specific AD/HD diagnostic subtype; Predominantly Inattentive Type, Hyperactive Impulsive Type, Combined Type, or Not Otherwise Specified.
2. In the case of AD/HD, applicants must submit
 - A. Documentation/records from childhood to help establish a childhood onset of symptoms (report cards, IEPs, teacher comments, etc.)
 - B. Documentation of your functional impairment in activities beyond academics and test taking
 - C. Documentation of your current and past functional impairment beyond self-report
3. Important considerations regarding AD/HD documentation are:
 - A. **Records of academic history must be provided.** Because developmental disabilities such as AD/HD are usually evident (though not always diagnosed), historical information regarding the individual's academic and behavioral functioning in elementary and secondary education should be provided. In addition, you must provide transcripts from both undergraduate and law school. Self-report alone, without any accompanying historical documents that validate developmentally deviant AD/HD symptoms and impairment is not sufficient to substantiate an AD/HD diagnosis.

- B. A qualified diagnostician must conduct the evaluation.** Professionals conducting assessments and rendering diagnoses of AD/HD must be qualified to do so. Comprehensive doctoral level training in the differential diagnosis of AD/HD and other psychiatric disorders and direct experience in diagnosis and treatment of adults with AD/HD is necessary. Diagnosticians should include a brief biographical sketch explaining that they possess the necessary training, experience, and credentials for diagnosing AD/HD in adults. The evaluator's name, title and professional credentials should be clearly stated in the documentation.
- C. Testing/assessment must be current.** The determination of whether an individual is "substantially limited" in functioning is based on assessment of the current impact of the impairment on the Pennsylvania bar examination (see General Guidelines). Because the provision of reasonable accommodations is based on assessment of the current impact of the examinee's disability on the testing activity, it is necessary to provide "recent" documentation. Since applicants must establish "current impairment" in order to be eligible for accommodations, diagnostic evaluations that are more than three years old may be denied for that reason alone. Therefore, professional declarations should be generally based on evaluations that are no more than three years old.
- D. The documentation should build a case for and provide sufficient evidence for the AD/HD diagnosis.** An AD/HD evaluation is primarily based on an in-depth history reflecting a chronic and pervasive history of AD/HD symptoms and associated impairment beginning during childhood and persisting to the present day. The evaluation should provide a broad, comprehensive understanding of the applicant's relevant background including family, academic, behavioral, social, vocational, medical, developmental, and psychiatric history. There should be an emphasis on how the AD/HD symptoms have manifested across various settings over time, how the applicant has coped with the problems, and what success the applicant has had in their coping efforts. Any past or current treatments for AD/HD and the impact of those treatments should be discussed (including medications, accommodations, tutoring, classroom modifications, counseling etc. Providing narrative documentation from collateral informants who know the applicant well (such as parents, spouses, siblings, teachers, professors, supervisors, tutors, coaches, etc.) can also help to illuminate and establish a credible history of significant functional impairment relating to AD/HD.
- E. Test scores alone are not sufficient to establish an AD/HD diagnosis.** Test scores or subtest scores alone should not be used as the sole basis for the diagnostic decision. Scores from subtests on the Wechsler Adult Intelligence Scale-III (WAIS-III), memory function tests, attention or mental tracking tests or continuous performance tests do not in and of themselves establish the presence or absence of AD/HD. They may, however, be useful as additional evidence of attentional problems that support the history of the applicant's functional impairment. A neuropsychological or psycho-educational assessment can be helpful in identifying the individual's pattern of strengths and weaknesses and whether there are patterns supportive of attention problems. However, a comprehensive testing battery alone, without illuminating a pattern of real world functional impairment, will not be sufficient to establish an AD/HD diagnosis or a disability. Checklists and/or AD/HD symptom rating scales can be a helpful supplement in the diagnostic process, but by themselves are not adequate to establish a diagnosis of AD/HD. When testing is used, standard scores must be provided for all normed measures.
- F. Effort on Testing.** The applicant's effort during testing should be monitored to determine the reliability of the diagnostic information and test results. Information concerning the applicant's behavior and motivational level should be provided along with the results of symptom validity tests.
- G. Each accommodation recommended by the evaluator must include a rationale.** Thus, in addition to a comprehensive diagnostic evaluation, the report should also address the history of prior accommodations the person has received and the objective of those accommodations. Accommodations are not granted on the basis of a diagnostic label. Instead, accommodation requests need to be tied to a history of functional impairment that supports their use. The evaluator must describe the type and degree of impact the AD/HD has (if one exists) on a specific major life activity and on the individual. The diagnostic report must include specific recommendations for accommodations that flow logically from the history of functional impairment.

A detailed explanation must be provided as to why each accommodation is recommended and should be correlated to specific identified functional limitations.

- H. It is important to note that a prior history of receiving accommodations in previous academic/testing environments is not a guarantee one will be granted accommodations on the Pennsylvania bar exam.** Prior documentation may have been adequate in determining appropriate services or accommodations in the past. However, documentation should validate the need for accommodation based on the individual's current level of functioning and needs to show that the person currently meets the ADA's definition of "disabled". The documentation should include any record of prior accommodation or auxiliary aid, including information about specific conditions under which the accommodation was used (e.g., standardized testing, final exams, etc.). However, a prior history of accommodation without demonstration of a current need does not in itself warrant the provision of a similar accommodation. If no prior accommodation has been provided, the qualified medical/professional authority and/or individual being evaluated should include a detailed explanation as to why no accommodation was used in the past and why accommodation is necessary at this time.
- I. Documentation must include a specific diagnosis.** The report must include a specific subtype diagnosis of AD/HD based on the DSM-IV diagnostic criteria. Evaluators should be particularly careful regarding individuals diagnosed with AD/HD, predominantly inattentive type, since this is often confused with symptoms of poor organization, test anxiety, or memory/concentration difficulties that are evident only on a situational basis. Given that many individuals benefit from prescribed medications and therapies, a positive response to medication in and of itself neither supports nor negates the AD/HD diagnosis or the need for accommodation.

Guidelines for Documentation for Visual Disabilities

A qualified evaluator who is familiar with the disability of the individual must submit a vision evaluation report that includes the following information:

1. Detailed Visual and Medical History
2. Current Diagnosis
3. Best Corrected Visual Acuties for Distance and Near Vision
4. Eye Health (both external and internal evaluations)
5. Diagnosis-specific Findings (address all relevant areas)
 - a. Visual Field: threshold field, not confrontation (provide measurements, and copies of reports).
 - b. Binocular Evaluation: eye deviation (provide measurements), diplopia, suppression, depth, perception, convergence, etc. Specify the distance or near point.
 - c. Accommodative Skills: at near point, with and without lenses (provide measurements).
 - d. Oculomotor Skills: saccades, pursuits, tracking
6. Describe how the individual's diagnosis and symptomology relate to his/her reading ability and why each recommended accommodation is needed. Your recommendation cannot be supported solely by a history or prior accommodation

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Nonstandard Testing Accommodations Request Form

All applicants are permitted to have food, beverage, medication, and lumbar support during the examination, regardless of whether receiving NTA. DO NOT complete this application for the aforementioned items. **This form MUST be typed.**

GENERAL INFORMATION

Name: [Click here to enter text.](#)

Note: All correspondence regarding NTA will be mailed via US Postal Service (USPS) certified or regular mail to the address listed on your *Application for Permission to Sit for the Pennsylvania Bar Examination and for Character and Fitness Determination under Pa B.A.R. 203/205.*

Telephone Numbers: Mobile: [Click here to enter text.](#) Other: [Click here to enter text.](#)

Personal Identification: Date of birth: [Click here to enter a date.](#) Social Security No: (last 4 digits)

Email: [Click here to enter text.](#)

Current Exam Information:

1. If you intend to “sit concurrently” with another jurisdiction, list the jurisdiction: [Choose an item.](#)
(It is your responsibility to coordinate testing accommodations with that jurisdiction.)
2. Did you request computer based testing (CBT) on your online Application for Permission to Sit for the Pennsylvania Bar Examination? Yes No

DISABILITY STATUS (see NTA instructions for required documentation.)

1. Nature of Disability (check all that apply):

- Hearing Disability
- Visual Disability
- Learning Disability
- AD/HD
- Physical Disability
- Psychiatric Disability
- Other:
[Click here to enter text.](#)

2. I was first professionally diagnosed by:

A. Name of Qualified Professional and Current Address/Phone if Available:

[Click here to enter text.](#)

B. Occupation/Specialty:

[Click here to enter text.](#)

C. Specific Diagnosis:

[Click here to enter text.](#)

D. Date of Diagnosis (mm/yyyy):

[Click here to enter text.](#)

See attached pages for multiple diagnoses

3. What treatment(s)/medication(s) have been prescribed?

A. Treatment or Medication:

[Click here to enter text.](#)

B. Timeframe of Treatment:

[Click here to enter text.](#)

C. Effect on Condition:

[Click here to enter text.](#)

D. Reason for Discontinuing Treatment (if applicable):

[Click here to enter text.](#)

E. Prescribed by Whom (Occupation/Specialty):

[Click here to enter text.](#)

See attached pages for multiple treatment(s)/medication(s)

4. Did you attend a special school/program or use disabled student services at any time during your educational career (check all that apply)? You must provide a detailed description of programs/services attended by attaching an explanation sheet to this NTA Request Form.

no

elementary school

high school

college

law school

other (specify):

[Click here to enter text.](#)

PREVIOUS ACCOMMODATION(S) (see NTA instructions for required documentation.)

For questions 5- 13, follow these instructions. Additionally, you should provide all documentation from the institution granting or denying accommodations and your test scores. Attach additional pages as needed.

If you were granted accommodations, check “Yes, Granted” List the condition or diagnosis for which accommodations were granted, the specific accommodations granted, the educational institution or testing agency that granted the accommodations, and the time frame.

If you were denied accommodations, check “Yes, Denied.” List the month and year the request was made, the condition or diagnosis for which accommodations were requested, the accommodations requested, the educational institution or testing agency, and the reason given by the entity for the denial. Note: if your request for accommodations was granted in part and denied in part, you should check both “Yes, Granted” and “Yes, Denied.

If you did not request accommodations, check “Not requested.” Explain why you did not request accommodations.

If you did not attend the type of school or take that exam, check “N/A.”

5. Have you ever requested NTA for any bar examination? (Attach additional pages as needed)

Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

A. If you ever applied to take a bar examination, but did not request NTA, what was the jurisdiction(s) and did you pass or fail?

[Click here to enter text.](#)

6. Did you request accommodations for the Multistate Professional Responsibility Exam (MPRE)?

Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

7. Did you request accommodations in law school?

Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

8. Did you request accommodations in college (undergraduate and/or graduate studies)?

Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

9. Did you request accommodations for the LSAT?

- Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

10. Did you request accommodations for the SAT and/or ACT?

- a. SAT Yes, Granted Yes, Denied Not Requested N/A
b. ACT Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

11. Did you request accommodations for any of the following standardized tests?

- a. GRE Yes, Granted Yes, Denied Not Requested N/A
b. GMAT Yes, Granted Yes, Denied Not Requested N/A
c. MCAT Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

12. Did you request accommodations or disabled student services in high school, including but not limited to accommodations or services provided as a result of an Individualized Education Plan (IEP) or a 504 Plan?

- Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

13. Did you request accommodations or disabled-student services in elementary or middle school, including but not limited to accommodations or services provided as a result of an IEP or 504 Plan?

- Yes, Granted Yes, Denied Not Requested N/A

[Click here to enter text.](#)

ONLY ACCOMMODATIONS REQUESTED ON THIS PAGE WILL BE REVIEWED AND APPROVED. (Various accommodations mentioned in your personal statement, recommended by your medical experts in their reports, received in past testing environments, etc. will not be considered unless you specifically request them on this page.)

NONSTANDARD TESTING ACCOMMODATIONS REQUESTED (see NTA instructions for required documentation.)

14. Do you request the use of auxiliary aids and services? Yes No

A. If yes, check all that apply:

- specific table height (specify height): [Click here to enter text.](#)
- reader as accommodation for visual impairment
- scribe for completing MBE answer sheet
- PT and Essay exam questions in electronic format
- Permission to mark/circle answers in the MBE question booklet and have answers transferred
- alternate version of the test (check all that apply):
- audio recording
- Braille
- large print (18 point font)
- other (be specific):
[Click here to enter text.](#)

NOTE: You may provide your own auxiliary aids if approved. (Example: special chairs, tables, foot stools, additional lighting equipment, magnifying items, lumbar support, writing devices, voice-activated computer, etc.)

15. Do you request extra time to take the bar examination? Yes No

A. If yes, your medical/professional authority must provide a detailed justification for the additional time, and whether the time requested is for testing or breaks. Requests for unlimited time are not a reasonable accommodation under the ADA.

1) Select the additional time request or be specific if not listed:

- 50%* PT/Essay
- 50%* MBE
- or other (be specific):
[Click here to enter text.](#)

2) Select whether the time request is for testing or breaks

- TESTING** (The extension of time will be used for testing. Restroom or rest breaks may be taken at any time during testing; however, no additional time will be added.)
- OR**
- BREAKS ONLY** (The extension of time is for **stop-the-clock breaks only**. The additional time is for breaks only, and may not be used for testing). You will be required to exit the test room when using break time.

*On both days of the examination, the 3 hour AM and PM test sessions are extended to 4 ½ hours for applicants receiving 50% additional time. The examination normally begins each day at 8:30 am and ends at 7 pm. You will also receive an hour lunch period. You may leave early if you finish the examination before the test session ends.

NOTE: NTA applicants will be tested in an area with other applicants receiving similar accommodations.

PERSONAL STATEMENT

In addition to professional documentation as required, you must provide a personal statement describing your disability and its impact on your daily life and education functioning. You must also list which major life activities your disability impacts and provide a detailed description of the effects. Do not confine your comments to standardized test performance, but instead discuss your overall functioning.

[Click here to enter text.](#)

Attach and number additional pages as needed.

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Nonstandard Testing Accommodations Authorization and Release

I, _____, in connection with my request for nonstandard testing accommodations (NTA) for taking the bar examination, authorize the Board of Law Examiners (Board) to provide, at its discretion, a copy of any and all documentation that I submit in connection with my NTA request to such persons and/or consultants as the Board may deem necessary to adequately evaluate my NTA request. If requested by the Board, I further agree to submit to diagnostic testing by an independent physician, therapist, or other professional authority chosen by the Board.

If further information regarding the documentation that I have provided is needed, I authorize the Board to contact the professional(s) who diagnosed and/or treated my disability. I further authorize such professionals to communicate with the Board in this regard to provide such clarification and/or further information and documentation as the Board requires.

I authorize the Board to contact those entities which have provided me test accommodations or with whom I have a current request for test accommodations pending for the purposes of ascertaining what accommodations have been or will be granted or denied. I further authorize such entities to communicate with the Board in this regard to provide such clarification and/or further information and documentation as the Board requires.

I hereby release, discharge, and exonerate the Pennsylvania Board of Law Examiners, its agents, and representatives and/or any person so furnishing information from any and all liabilities of every nature and kind arising out of the furnishing, inspection or receipt of medical records, documents, and other information, or the investigation made by or on behalf of the Board.

State of _____

ss.)

County of _____

Signature of Applicant

Subscribed and sworn to or affirmed before me

this _____ day of _____, 20____.

Notary Public

My commission expires: _____
Seal or stamp must be affixed.

THIS FORM MUST BE SIGNED AND NOTARIZED, ONLY IF YOU ARE APPLYING FOR NONSTANDARD TESTING ACCOMMODATIONS.

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Certificate of Law School Official

Instructions:

1. Type your name and social security number or student identification number where indicated.
2. Submit this form to your law school(s) for completion (make copies as needed).
3. The law school(s) must return this form back to you (fax copies are acceptable).
4. After this form is completed by your law school(s) and returned to you, submit it to the board office with your NTA Request Form and documentation.
 - a. Note: This form must be completed even if you did not request and/or receive NTA during law school.

Applicant's name: _____

Social Security No. or Student ID No.: _____

THIS SECTION MUST BE COMPLETED BY THE LAW SCHOOL AND RETURNED TO THE APPLICANT.

The above-named applicant is requesting NTA for the Pennsylvania bar examination. While attending law school this applicant:

- did not request NTA;
- requested NTA for a disability of _____, but was not granted accommodations for the reasons listed on the attached sheet;
- requested NTA for a disability of _____, and was granted accommodations as described on the attached sheet. You **must** include a detailed description of the accommodations granted, including a list of classes and the method(s) of examination.
 - when were the accommodations requested (Month, Year) _____
 - when were accommodations approved (Month, Year) _____

I certify that the information contained herein is true and correct to the best of my knowledge and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

Executed on: _____, at _____, by _____
(Date) (City and State) (Signature)

Law School: _____

Name and title: _____ Telephone Number: () _____ Ext: _____